

DRAFT

**Board for Professional Engineers and Land Surveyors
Board Meeting Minutes
September 2, 2005**

**Hyatt Regency Orange County
11999 Harbor Boulevard
Garden Grove, California, 92840
(714) 750-1234**

Friday, September 2, 2005

Board Members Present: Cindy Tuttle (President), Dale Wilson (Vice President), Gregg Brandow, Arthur Duffy, James Foley, Michael Welch, and Edward Yu

Board Members Absent: Robert Jones, William Roschen, and Millicent Safran

Board Staff Present: Cindi Christenson (Executive Officer), Gary Duke (Legal Counsel), Susan Ruff (Liaison Deputy Attorney General), Linda Schneider (Liaison Deputy Attorney General), Nancy Eissler (Enforcement Program Manager), Debbie Thompson (Budget Analyst), and Cindy Fernandez (Executive Analyst)

Public Present: See Attached

1. Roll Call to Establish a Quorum

The meeting was called to order by President Foley at 9:00 a.m. Roll call was taken, and a quorum was established.

2. Incoming Board President Takes Office

President Foley turned the Presidency of the Board over to Vice President Tuttle.

Incoming President Tuttle presented a proclamation and an engraved gavel to Past President Foley. Mr. Foley thanked everyone for their support during his term as President.

3. Public Comment

Mr. Hamers, CE, who acts as one of the Board's technical experts for enforcement cases, wanted to extend congratulations to the Board for having such a wonderful Enforcement staff and for the excellent job that they do. Mr. Hamers stated, that as a manager, he really understands the importance of a good staff, and he wanted to let the Board know how well its staff is doing. He stated that he has worked very closely with Enforcement Analyst Donna Vaum on several cases and that she has a great understanding of the complex issues involved in the complaint cases; he stated that she is a credit to the Board.

President Tuttle thanked Mr. Hamers for his comments and directed Ms. Christenson to pass them on to the Enforcement staff.

4. Approval of Delinquent Reinstatements (Possible Action)

MOTION: Vice President Wilson/Mr. Yu moved to approve the Delinquent Reinstatements as follows:

CIVIL

1. Kevin Cecil Martin

Reinstate applicant's civil license once she takes and passes the seismic principles examination, the engineering surveying examination, and the Board's Laws and Regulations Examination.

VOTE: 7-0, motion carried.

5. Comity and Temporary Authorization Applications (Possible Action)

MOTION: Vice President Wilson/Mr. Welch moved to approve the Amended Handout Comity List.

VOTE: 7-0, motion carried.

MOTION: Mr. Foley/Mr. Duffy moved to approve a Temporary Civil Authorization for a period of 180-days for Ralph M. Wallem.

VOTE: 7-0, motion carried

Temporary Authorization applicant Richard Willet did not appear before the Board. Mr. Willet will be contacted to see if he wants to appear at the next scheduled Board meeting.

6. **Board Committee Structure (Possible Action)**
President Tuttle advised that she requested that this item be put on the agenda. She requested that all Board members advise Ms. Christenson if they wish to remain on the same committees for this year. President Tuttle indicated she will announce the committees at the next Board meeting.
8. **Enforcement**
 - a. **Update regarding Rulemaking Proposals, including but not limited to Board Rules 404.1 and 404.2 (Responsible Charge), Board Rule 418 (Criteria for Rehabilitation), and Board Rule 473 (Citations of Licensed Persons) (Possible Action)**
Ms. Eissler advised the Board that all of the rulemaking proposals were approved by the Office of Administrative Law. The amendments to Board Rule 418 became effective in August, and the amendments to Board Rules 404.1, 404.2, and 473 will become effective towards the end of September.
9. **Legislative**
 - a. **Discussion of Legislation for 2005, including but not limited to AB 180, AB 226, AB 446, AB 861, SB 246, and SB 752 (Possible Action)**
Ms. Christenson reported that there have not been many changes since the last Board meeting.
 - b. **Regulation Status Report**
Ms. Christenson reported on the information contained in the agenda.
10. **Technical Advisory Committee Reports (No Committee Meetings were held.)**
 - a. **Board Assignments to TACs (Possible Action)**
There were no Board assignments.
 - b. **Appointment of TAC Members (Possible Action)**
There were no new appointments of TAC Members.
11. **Liaison Reports (Possible Action)**
 - a. **ABET**
There was no ABET report.
 - b. **NCEES**
President Tuttle, Dr. Brandow, and Ms. Christenson attended the NCEES meeting in Memphis, Tennessee, from August 24 through 27, 2005.

President Tuttle reported that Dr. Brandow was elected Treasurer of NCEES.

c. Technical and Professional Societies

There were no reports.

7. Administrative

a. Fund Condition (Possible Action)

Ms. Thompson reported on changes included in the Board's fund condition dated August 18, 2005:

- Renewal revenue is projected to increase by 4% for the next two FYs or by another \$80,700 for FY 2005-06.
- Application revenue is projected to remain relatively consistent with that received in FY 2005-06.
- Actual revenue received for FY 2004-05 (\$6,842,824) was added.
- Proposed BCP expenses for Mandatory Reporting Requirements and Enforcement Positions has been included.
- The fiscal impact increase for the renewal fee proposed regulations, effective for FY 2006/07, has been added as OAL approval is expected this month.

b. Fiscal Year 2004/05 Budgets (Possible Action)

Ms. Thompson reported that the updated expenditure projection for FY 2004-05 is \$7,294,427 with a projected budget balance of \$486,573 for year end. The temporary help and overtime line item expenditures to date and projected for year-end are higher than in the past to absorb the shortfall in staff positions.

c. Fiscal Year 2006-07 Budget Change Proposals (BCPs)

1. **Enforcement Staff Increase (Caseload Backlog)**
 2. **Government Reporting Requirements (SB 1549, (Ch. 691, Statutes of 2004).**
 3. **Fund Redirection for Office Assistant (Mail Clerk) Position**
 4. **Fund Redirection for Personnel Selection Consultant Position**
- DCA approved the Enforcement Staff Increase and the Mail Clerk Position BCPs which will be forwarded to Department of Finance mid-September. These BCPs redirect the Board's existing budgeted funds to restore previously abolished positions. Ms. Thompson explained that the Administration's policy is to continue to contain the growth in authorized positions. Budget directives for BCPs this FY have clearly stated that requests for new positions generally will be limited to redirections of existing resources.

Mr. Wilson questioned at what point the Board will be able to meet its Enforcement performance measures for cases closed. Ms. Thompson pointed out that in preparing the Enforcement Staff

BCP, it was apparent that the case statistics for the number of cases closed do not match the performance measures set several years back. Ms. Eissler stated that, independent of losing the Enforcement staff positions, the number of new complaints received has increased. Because the Enforcement staff is down by three positions and expecting these positions to be restored next FY, the time to review the performance measures may be more appropriate next FY.

Mr. Duffy questioned if there was a rule with DCA that identifies the minimum standard enforcement cases. Ms. Christenson responded that there isn't a standard.

d. Publication Review

Ms. Thompson reported that the Enforcement Bulletin is at the printer and will be mailed to licensees by the end of September. Ms. Eissler reported that the information needed to move forward with the County Building Office Guide publication is now included. The next publication that will be updated is the Law Bulletin.

12. President's Report

President Tuttle presented Ms. Ruff with a Certificate and thanked her for her services with the Board. Ms. Ruff has been appointed as an Administrative Law Judge. Ms. Ruff's replacement will be Linda Schneider. Ms. Schneider has been with the Attorney General's office for six years and before that was in private practice.

President Tuttle also stressed to the Board members how important it is that they attend all Board meetings because of the quorum issues and if they are unable to attend, to let Ms. Christenson know as soon as possible that they will not be there.

13. Executive Officer's Report

1. Administration Report

a. Executive summary report
No additional report given.

2. Personnel

a. New Hires

Ms. Christenson reported that we have hired two new people. The new EIT/LSIT Technician is Eric Hickox and the new Administrative Unit Supervisor is Mira Brooks. Ms. Christenson reported that the former supervisor retired.

b. Vacancies

No vacancies.

3. **Enforcement/Examination/Licensing**
 - a. **College Outreach**

Ms. Crawford is checking with colleges to schedule future Outreach Programs. There is an outreach scheduled at San Diego for September.
 - b. **Report on Enforcement Activities**

Ms. Christenson reported that in August, Ms. Jenkins, the Enforcement Outreach Coordinator, met with the San Joaquin Valley Chapter of CLSA. Ms. Jenkins explained the complaint investigation process and gave them the yearly statistics. They discussed issues relating to failing to resubmit surveys back to the County, the County's failure to check maps within 20 days, and right-of-entry issues and damage to private property by surveyors conducting surveys. Ms. Jenkins also talked about the importance of educating and communicating with clients and using a written contract.
 - c. **Report on Examination Activities**

No report provided.
4. **Publications/Website**
 - a. **Website Activity Statistics**

No additional report was given.
5. **Other**
 - a. **DCA update**

Ms. Christenson stated that ABET visits are coming up and that Ms. Chaney is checking into this.
14. **Approval of Board Travel (Possible Action)**

There was no Board travel.
15. **Other Items Not Requiring Board Action**

Date of Next Board meeting: November 17 & 18, 2005, Sacramento

Ms. Eissler advised that a Petition for Reduction of Penalty has been received and will be scheduled for the next Board meeting.

Ms. Christenson reported that she has been receiving e-mails from the southern states affected by Hurricane Katrina to see if our Board can help in anyway.
16. **Closed Session – Personnel Matters, Examination Procedures and Results, Administrative Adjudication, and Pending Litigation (As Needed) [Pursuant**

to Government Code sections 11126(a) and (b), 11126(c)(1), 11126(c)(3), and 11126 (e)(1)]

- a. Michael William Foster v. Board for Professional Engineers and Land Surveyors, El Dorado Superior Court Case No. PC 20030492
- b. Lawrence B. Karp v. Board for Professional Engineers and Land Surveyors, Court of Appeal First Appellate District, Division 3, Case No. A109241, (San Francisco Superior Court Case No. 402996)

17. Open Session to Announce the Results of Closed Session

Ms. Christenson reported that the Board discussed pending litigation as noticed, specifically Michael William Foster v. Board for Professional Engineers and Land Surveyors, El Dorado Superior Court Case No. PC 20030492, and Lawrence B. Karp v. Board for Professional Engineers and Land Surveyors, Court of Appeal First Appellate District, Division 3, Case No. A109241, (San Francisco Superior Court Case No. 402996).

Ms. Christenson reported that the Board adopted the results of the take-home examination for the candidates who had previously passed the 8-hour portion of the April 2005 examinations.

Ms. Christenson reported that the Board approved the following cut score for the April 2005 Land Surveyor (State) examination:

- 177 out of a possible 397

Ms. Christenson reported that the Board adopted the Stipulations regarding John W. Hamby and Alfred F. Colarusso, Jr., adopted the Default Decisions regarding Robert C. Beamish, Jr., and George Ray Dickey, and adopted the Proposed Decision regarding Edmund C. Foerstel.

18. Approval of Consent Items (Possible Action)

(These items are before the Board for consent and will be approved with a single motion following the completion of Closed Session. Any item that a Board member wishes to discuss will be removed from the consent items and considered separately.)

- a. **Approval of the Minutes of the June 23 & 24, 2005, Board Meeting**
- b. **Approval of Candidates for Certification/Licensure (Based on Examination Results, Including Successful Appeals, Adopted in Closed Session)**

MOTION: Mr. Foley/Vice President Wilson moved to approve the consent calendar.

VOTE: 7-0, motion carried.

19. Adjourn

The Board adjourned at 11:50 a.m.

PUBLIC PRESENT

Tom Stout, CSPE/CLCPE
Richard Markuson, CELSOC
Jeff Cours, CPIL
Rob Hamers, CE
Ralph Wallem, BSI
Jas Arnold, CLSA